MICHELLE BETANCOURT
California State Bar No. 215035
FEDERAL DEFENDERS OF SAN DIEGO, INC.
225 Broadway, Suite 900
San Diego, California 92101-5008
Telephone: (619) 234-8467
Fax: (619) 687-2666
michelle_betancourt@fd.org

Attorneys for Ms. Palos-Montes

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(**HONORABLE LARRY A. BURNS**)

UNITED STATES OF AMERICA, Plaintiff, v. **ANA BERENICE PALOS-MONTES**, Defendant.	)	Case No. 08CR1726-LAB Date: TBA Time: TBA MOTION TO CONTINUE TRIAL DATE

The defendant, Ana Berenice Palos-Montes, by and through his attorneys, Michelle Betancourt and Federal Defenders of San Diego, Inc., pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an order to:

1) Continue the Trial Date.

This motion is based upon the instant motion, the attached Declaration of Michelle Betancourt, and all other materials that may come to this Court's attention at the time of the hearing on this motion.

Respectfully submitted,

s/ *Michelle Betancourt*

Dated: August 28, 2008

MICHELLE BETANCOURT
Federal Defenders of San Diego, Inc.
Attorneys for Ms. Palos-Montes
michelle_betancourt@fd.org

MICHELLE BETANCOURT
California State Bar No. 215035
FEDERAL DEFENDERS OF SAN DIEGO, INC.
225 Broadway, Suite 900
San Diego, California 92101-5008
Telephone: (619) 234-8467
Fax: (619) 687-2666
michelle_betancourt@fd.org

Attorneys for Ms. Palos-Montes

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

(**HONORABLE LARRY A. BURNS**)

UNITED STATES OF AMERICA, Plaintiff, v. **ANA BERENICE PALOS-MONTES,** Defendant.	)	Case No. 08CR1726-LAB **DECLARATION BY MICHELLE BETANCOURT IN SUPPORT OF MOTION TO CONTINUE TRIAL DATE**

I, **MICHELLE BETANCOURT**, declare and state as follows:

1. I am an attorney duly licensed to practice law in the State of California and before this Court.

2. I am employed as a Trial Attorney by Federal Defenders of San Diego, Inc., which has been appointed to represent Ms. Ana Berenice Palos-Montes in the present case.

3. On August 22, 2008, I, along with Ms. Palos-Montes, appeared before the Court for a motion *in limine* hearing. At that time, the Court ruled on most of the pending motions and reset the trial date. The Court set a new trial date of September 15, 2008.

4. At that time, I had no objection to the change in trial date and in fact, requested the following week, the week of September 23, 2008. However, Government counsel preferred the week of the 15th because of his wife's due date of October 1, 2008.

5. At the hearing, I noted that the week of the 23rd would better fit my personal schedule but Mr. Clark's wife's due date the Court set the trial for September 15, 2008.

6. On Monday, August 25, 2008, I was entering dates into my calendar and immediately realized that I had a trial scheduled before the Honorable Chief Judge Irma E. Gonzalez on September 16, 2008 in the case of United States v. Kelly-Palmer, 08CR0283-IEG. This trial has been scheduled since July 21, 2008. Unfortunately, the calendar I had with me on August 22, 2008, did not contain the updated information that included the Kelly-Palmer trial.

7. Presently, I plan on trying the Kelly-Palmer case with another attorney, Ms. Sara Peloquin. However, there is a possibility that I may have to take over the case entirely and try it without the assistance of Ms. Peloquin. Additionally, I have been heavily involved in preparing this case for trial and the litigation, including the preparation of the defense expert witness.

8. I contacted Mr. Clark on Tuesday, August 26, 2008, to inform him of my conflict. As of August 28, 2008, Mr. Clark's position with respect to his preference for the 15th has not changed.

9. Mr. Kelly-Palmer's trial date was already continued once and Mr. Kelly-Palmer has been in custody since January 6, 2008. At the time Judge Gonzalez continued the trial date to September 16th, the Court indicated it was a firm date and would not grant any further continuances because her trial schedule is heavily impacted.

10. Ms. Palos-Montes is in agreement with the continuance, particularly in light of the fact that she is facing a statutory minimum mandatory sentence of 10 years with a maximum of life in prison and does not wish to have replacement counsel take over her case.

11. If the Court would set the trial for September 23, 2008, neither I, nor Ms. Palos-Montes, would have any objection to recessing on any day during the trial if Mr. Clark's wife goes into labor. I understand and sympathize with Mr. Clark's desire to be present for the birth of his child. However, it is my request that the Court balance Mr. Clark's personal needs with my professional conflict and grant a continuance of the trial date to September 23, 2008.

The above is true and correct to best of my knowledge and belief based upon my own personal knowledge, information and belief.

DATED: August 28, 2008

s/ Michelle Betancourt
MICHELLE BETANCOURT,
Declarant.

MICHELLE BETANCOURT
California State Bar No. 215035
FEDERAL DEFENDERS OF SAN DIEGO, INC.
225 Broadway, Suite 900
San Diego, California 92101-5008
Telephone: (619) 234-8467 Ext. 3737
Facsimile: (619) 687-2666
michelle_betancourt@fd.org

Attorneys for Mr. Palos-Montes

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **ANA BERENICE PALOS-MONTES,** Defendant.	Case No. 08cr1726-LAB PROOF OF SERVICE

Counsel for Defendant certifies that the foregoing pleading is true and accurate to the best of her information and belief, and that a copy of the foregoing document has been served via CM/ECF this day upon:

Assistant United States Attorney
Efile.dkt.gc2@usdoj.gov

Dated: August 28, 2008

s/ Michelle Betancourt
MICHELLE BETANCOURT
Federal Defenders
225 Broadway, Suite 900
San Diego, CA 92101-5030
(619) 234-8467 (tel)
(619) 687-2666 (fax)
e-mail: michelle_betancourt@fd.org